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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/614,630
Filing Date	July 7, 2003
First Named Inventor	Robert Lawrence FAIR
Group Art Unit	2113
Examiner Name	Michael C. MASKULINSKI Fax: (571) 273-8300
Total No. of Pages in this Submission: 29	Attorney Docket Number: EMCCOR P08AUSD1

ENCLOSURES *(check all that apply)*

- ■ Fee Transmittal Form
  - ■ Fee attached + Check $500
- ☐ Amendment/Response
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request **(in Duplicate)**
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Part/s Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment papers *(for an Application)*
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition Routing Slip (PTO/SB/69) and Accompanying Petition (DELETED - no longer useful)
- ☐ To Convert a Provisional Petition
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Small Entity Statement
- ☐ Request for Refund
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ■ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ■ Additional Enclosure(s) *(please identify below)*:

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Appeal Brief Transmittal - 3pgs

REMARKS

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	Gary D. Clapp DAVIS BUJOLD & DANIELS, P.L.L.C. Reg. No. 29,055 **CUSTOMER NO. 020210**
Signature	
Date	June 27, 2007

CERTIFICATE OF MAILING

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Type or printed name	Gary D. Clapp
Signature	Date: June 27, 2007 (tac)

PTO/SB/17 (07-06)
Approved for use through 01/31/2007. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT: $500.00

Complete if Known

Application No.	10/614,630
Filing Date	July 7, 2003
First Named Inventor	Robert Lawrence FAIR
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METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee (4)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims _____ -20 or HP = Extra Claims _____ x Fee ($) _____ = Fee Paid ($) _____ Multiple Dependent Claims Fee ($) _____ Fee Paid ($) _____

Indep. Claims _____ -3 or HP + Extra Claims _____ x Fee ($) _____ = Fee Paid ($) _____ _____ _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ -100 = Extra Sheets _____ / 50 = No. of each additiona l 50 or fraction thereof _____ (round up to a whole number) x Fee ($) _____ = Fee Paid ($) _____

4. OTHER FEE(S)

Non-English Specification, $130 fee (no small entity discount) Fees Paid ($) _____

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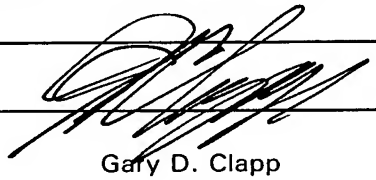
Signature			Telephone (603) 226-7490
Name (Print/Type)	Gary D. Clapp	Registration No. (Atty/Agent) 29,055	Date: June 27, 2007

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Robert Lawrence FAIR
Serial no.	:	10/614,630
Filed	:	July 7, 2003
For	:	A MULTIPLE HIERARICHAL/PEER DOMAIN FILE SERVER WITH DOMAIN BASED, CROSS DOMAIN COOPERATIVE, FAULT HANDLING MECHANISMS
Group Art Unit	:	2113
Examiner	:	Michael C. MASKULINSKI
Docket	:	EMCCOR P08AUSD1

The Commissioner for Patents
U.S. Patent & Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION -- 37 C.F.R. § 1.192

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on May 3, 2007.

2. STATUS OF APPLICANT

This application is on behalf of

- ■ other than a small entity.
- □ a small entity.

A statement:

- □ is attached.
- □ was already filed.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is **mandatory**;
Express Mail certification is optional.)

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37 C.F.R. § 1.8(a)

- ■ with sufficient postage as first class mail.

Signature_____

Date: June 27, 2007 Gary D. Clapp

(type or print name of person certifying)

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 1.17(c), the fee for filing the Appeal Brief is:

☐	Small entity	$250.00
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APPEAL BRIEF FEE DUE $500.00

4. EXTENSION OF TERM

NOTE: 37 C.F.R. § 1.704(b) ".....an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice of action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

NOTE: The time periods set forth in 37 C.F.R. § 1.192(a) are subject to the provision of § 1.136 for patent application. 37 C.F.R. § 1.19(d). See also Notice of November 5, 1985 (1060 O.G. 27).I

NOTE: As the two-month period set in § 1/192(a) for filing an appeal brief is not subject to the six-month maximum period specified in 35 U.S.C. § 133, the period for filing an appeal brief may be extended up to seven months. 62 Fed. Reg. 53,156; 1203 O.G. 63, at 84 (Oct. 10, 1997).

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

complete (a) or (b), as applicable)

(a) ☐ Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(5)) for th total number of months checked below:

	Extension (months)	Fee for other than Small Entity	Fee for Small Entity
☐	one month	$ 120.00	$ 60.00
☐	two months	$ 440.00	$ 225.00
☐	three months	$1,020.00	$ 510.00
☐	four months	$1,590.00	$ 795.00
☐	five months	$2,160.00	$1,080.00

FEE: $

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for _____ months has already been secured, and the fee paid therefor of $_____ is deducted from the total fee due for the total months of extension now requested.

EXTENSION FEE DUE WITH THIS REQUEST $

OR

(b) ■ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee $500.00
Extension fee (if any) $-0-

TOTAL FEE DUE $500.00

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SIGNATURE OF PRACTITIONER

Gary D. Clapp
(Type or print name of practitioner)

DATE: June 27, 2007

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF APPEALS AND INTERFERENCES

****

Appeal Number

In re Application of:	Robert Lawrence FAIR
Serial no.:	10/614,630
Filed:	July 7, 2003
For:	A MULTIPLE HIERARCHAL/PEER DOMAIN FILE SERVER WITH DOMAIN BASED, CROSS DOMAIN COOPERATIVE, FAULT HANDLING MECHANISMS
Group Art Unit:	2113
Examiner:	Michael C. MASKULINSKI
Docket No.:	EMCCOR P08AUSD1

06/29/2007 EHAILE1 00000046 10614630

********** 01 FC:1402 500.00 OP

APPELLANT'S BRIEF

This Appeal Brief is being filed in support of Appellant's Notice of Appeal mailed on May 3, 2007 in view of the final rejection of claims 1 and 2 issued by the Primary Examiner.

06/29/2007 EHAILE1 00000041 10614630

Void date: 06/29/2007 EHAILE1 -500.00 OP
06/29/2007 EHAILE1 00000041 10614630
01 FC:1401 -500.00 OP

TABLE OF CONTENTS

(I) REAL PARTY IN INTEREST

The real party in interest in the present patent application is EMC Corporation, a Massachusetts corporation having a place of business at 171 South Street, Hopkinton, Massachusetts 01748.

(II) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences in respect of the instant or any related patent application.

(III) STATUS OF CLAIMS

Presently claims 1 and 2 are pending and presented for appeal and the appealed claims are set forth in the Appendix attached hereto.

(IV) STATUS OF AMENDMENTS

The Appellant filed an amendment after final, mailed under an April 5, 2007 Certificate of Mailing date, submitting arguments pertaining to the unobviousness of the pending claims.

No further amendment has been entered or filed subsequent to the April 23, 2007 Advisory Action.

(V) SUMMARY OF CLAIMED SUBJECT MATTER

A shared system resource [Fig. 1, 10] for use in a networked system (Fig. 1, 10A, 34N] to provide services to a plurality of clients [Fig. 1, 34C] communicating with the system resource through a network [Fig. 1, 10A, 34N], such as a file server providing storage space and functions for a plurality of network clients.

The shared system resource [Fig. 1, 10] comprises a plurality of domains [Figs. 1 and 2; elements 10A - 10J; paragraphs [021], [022], [023], [024], [025], [034], [035], [038], [050], [054], [094], [095], [106], [109]] that are structured as an integrated, cooperative cluster of domains including hierarchically related domains [Figs. 1 and 2; elements 10A - 10J; paragraphs 021], [022], [023], [024], [025], [034]] and peer related domains [Figs. 1 and 2; elements 10A - 10J; paragraphs 021], [022], [023], [024], [025], [034]] wherein each domain performs one or more functions supporting the services provided by the system resource. Hierarchically related domains include higher level domains and lower level domains respectively performing higher and lower level operations of one or more related functions supporting the services provided by the system resource [Figs. 1 and 2; elements 10A - 10J; paragraphs 021], [022], [023], [024], [025], [034]], and peer related domains include parallel domains performing related or comparable operations in mutual support of one or more related functions supporting the services provided by the system resource [Figs. 1 and 2; elements10A - 10J; paragraphs 021], [022], [023], [024], [025], [034]]. Each domain performing functions comparable to a peer domain monitors the peer related domain and assumes the operations performed by the peer domain upon detecting a failure in the peer related domain [Figs. 1, 2 and 3; elements 10A - 10J 48, 66, 66B, 66C, 66G, 66M, 66P, 66R, 66S; paragraphs [023], [025], [089], [095] - [098], [103], [109] - [119], [129] - [137].

(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(A) The only issue presented for appeal is whether claims 1and 2 are unpatentable under 35 U.S.C. 102(b) an being anticipated by U.S. Patent No. 5,768,501 to Lewis for a METHOD AND APPARATUS FOR INTER-DOMAIN ALARM CORRELATION, hereafter referred to as "Lewis '501".

(VII) ARGUMENTS

(A) Whether claims 1and 2 are unpatentable under 35 U.S.C. 102(b) over Lewis '501 involves the three issues of:

(a) what meaning is to be assigned to the terms appearing in the claims,

(b) whether the subject matter and terms recited in the claims are fully supported and defined by the disclosure of the application and by the recitations in the claims, and

(c) whether Lewis '501 teaches each element and limitation recited in claims 1 and 2 under the requirements of 35 U.S.C. 102.

(a) Meanings to be assigned to the terms appearing in the claims

The meanings of the terms employed in the specification and the claims which define the subject matter of the invention as recited in pending claims 1 and 2 involves the question whether the Applicant is entitled to the definitions of terms as set forth in the specification and used in the claims in interpreting the meaning of the claims and the relationship between the recitations of the claims and the cited prior art, or whether the Examiner may impose definitions other than those set forth in the specification and the claims of the application in interpreting the claims and the prior art.

This question, in turn, involves the following three issues raised by the Examiner regarding the interpretation of terms used in the specification, the claims and Applicant's arguments presented in response to the cited prior art:

(i) The Examiner states that the definitions of the terms "domain", "hierarchically related domains", "peer domains", "higher level domains" and "lower level domains" as given in the specification and as employed in the claims are contrary to the accepted meanings of the terms in the art of computer systems, and has applied definitions of the Examiner's choosing in interpreting the claims and the prior art.

For example, the Examiner cites a definition of "domain" from the Microsoft Company Directory as used in (a) the database design and management context as being a set of valid values for a given attribute, as used (b) in the context of Windows NT Advanced Servers as a collection of computers that share a common database and

security policy, and as used in (c) Internet, as the highest subdivision of a domain name in a network address and as identifying the type of entity owning the address.

It must be noted that the Microsoft Company Dictionary states four different definitions for the term "domain" and that these definitions are all related to the network addressing field, which is a very different field of use and application than structural and operational relationships between functional units of the system, which is the field of definition of the present invention. It should also be noted that, as will be apparent in a following discussion, that these definitions are also all different from the meaning used in the cited prior art reference and from the meaning of the term as used in the disclosure and claims of the present application.

(ii) The Examiner states with regard to the recitation that the system resource comprises "a plurality of domains structured as an integrated, cooperative cluster of domains including hierarchically related domains and peer related domains" that "[b]y definition a domain is a collection of computers resources. A shared resource can be part of an overall domain, for example, a shared resource being a computer in a collection of computers making up a domain. However, an isolated shared resource cannot consist of domains."

(iii) The Examiner states that the terms "inter-relationships and inter-operations," [between hierarchical and peer domains] referred to in the Applicant's arguments, are never claimed or defined in the claim language and that the Applicant instead relies on the specification to provide these limitations.

In response, it is the Applicant's position that, for the following reasons, the Applicant is entitled to the definitions of terms defined in the disclosure and claims of the application in interpreting the claims and the cited prior art, rather than employing the definitions and the limitations provided by the pending specification and the claims, and that the application of other definitions by the Examiner in interpreting the claims and the prior art has correspondingly resulted in the misinterpretation of claims 1 and 2 with respect to the teachings of Lewis '501.

It is long established that, as stated explicitly in, for example, section 2111.01 of the Manual of Patent Examining Procedure (MPEP), that an Applicant is entitled to be his or her own lexicographer, even to the extent that the Applicant may set forth a

definition of a term that is different from its ordinary and customary meanings, such as set forth in standard references such as dictionaries. The sole requirement, as stated in, for example, is that the Applicant do so with reasonable clarity, deliberateness, and precision and in some manner within the patent disclosure so as to give one of ordinary skill in the art notice of meaning of the term as used by the Applicant. See, for example, *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994), *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1387-88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992), *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998), and *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999) and MPEP § 2173.05(a).

It is also long established that where an explicit definition of a term is provided by an Applicant in accordance with the above requirements, that definition will control interpretation of the term as it is used in the claims. See, for example, *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999), *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) (en banc); and *Vitronics Corp. v. Conceptronic Inc.*, 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996).

Considering the first (i) and second (ii) issues identified above under the above discussed principles, that is, what definitions are to be assigned to "system resource as a plurality of domains" and the terms "system resource", "domain", "hierarchically related domains", "peer domains", "higher level domains" and "lower level domains", these terms are completely, clearly and thoroughly defined in, for example, Figs. 1 and 2 and in paragraphs [021], [022], [023], [024], [025], [034], [035], [038], [050], [054], [094], [095], [106], [109] of the specification of the application and, in doing so, provides complete and clear notice of the meanings of these terms, as used by the Applicant, to persons of ordinary skill in the arts.

Specifically, the Applicant defines:

(a) the system resource as an integrated, cooperative cluster of domains,

(b) each domain as performing one or more functions supporting the services provided by the system resource,

(c) the domains as including hierarchically related domains and peer domains,

(d) hierarchically related domains as including higher level domains and lower level domains respectively performing higher and lower level operations of one or more related functions supporting the services provided by the system resource,

(e) peer related domains include parallel domains performing related or comparable operations in mutual support of one or more related functions supporting the services provided by the system resource, and

(f) each domain that performs functions comparable to a peer domain also monitors the peer related domain and assumes the operations performed by the peer domain upon detecting a failure in the peer related domain.

In view of the above, it is therefore the Applicant's belief and position that such terms are defined with sufficient clarity, deliberateness, and precision so as to give one of ordinary skill in the art full notice of the intended meaning of the terms, as used by the Applicant, and that the Applicant is entitled to the meanings of these terms as defined by the application in interpreting the recitations of the claims and the teachings of the prior art with respect to the recitations of the claims.

Lastly, the third issue (iii) identified above is whether the Applicant's attempt to rely on incorporation of the terms "inter-relationships" and "inter-operations" [between hierarchical and peer domains] from the specification as claim limitations without defining or using these terms in the claims.

In response, the Applicant wishes to point out that the Applicant uses the terms "inter-relationships" and "inter-operations" solely in the arguments discussing the distinctions of the present invention, as recited in the claims, over the cited prior art. It appears that the Examiner misinterprets or misunderstood the Applicant's use of these terms as the Applicant uses these terms solely as a more convenient and briefer way of referring to the structural and operational relationships between the domains of the system resource.

The meanings of the terms "inter-relationships" and "inter-operations," in referring to the operational and structural relationships between the domains of the system resource, are in fact fully defined and recited in the claims, and specifically by the recitations of:

"a shared system resource . . . comprising . . . a plurality of domains structured as an integrated, cooperative cluster of domains including hierarchically related domains and peer related domains,"

"each domain performing one or more functions supporting the services provided by the system resource,"

"hierarchically related domains include a higher level domain and a lower level domain respectively performing higher and lower level operations of one or more related functions supporting the services provided by the system resource,"

"peer related domains include parallel domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource," and

"a domain having a peer related domain monitors the peer related domain and assumes the operations performed by the peer domain upon detecting a failure in the peer related domain".

Claim 2 further defines a domain by stating that a domain may further comprise "peer related domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource."

It is therefore the Applicant's belief and position that it is not necessary to specifically include the terms "inter-relationships" and "inter-operations" in the claims to define the structural and operational relationships between domains as the full equivalence of these terms is provided and defined in the claims by the claim recitations noted above.

It is further the Applicant's belief and position that the Applicant is not attempting to rely on incorporation of the terms "inter-relationships" and "inter-operations" from the specification as claim limitations, and that the Examiner therefore cannot use this alleged lack of definition of terms to introduce term definitions other than those stated in the specification and the claims of the application.

The Applicant therefore respectfully requests a finding that the Applicant is entitled to the the definition of a "system resource as a plurality of domains" and the definitions of the terms"system resource", "domain", "hierarchically related domains", "peer domains", "higher level domains" and "lower level domains," set forth in the

specification and the claims, in interpreting the meaning of the claims and the relationships between the invention as recited in the claims and the cited prior art.

(b) Support in the disclosure and claims for terms appearing in the claims

Clear, complete and explicit support for the expressions and terms "system resource as a plurality of domains", "system resource", "domain", "hierarchically related domains", "peer domains", "higher level domains" and "lower level domains" as used in the claims, is provided in the disclosure of the application in, for example, Figs. 1 and 2 and in paragraphs [021], [022], [023], [024], [025], [034], [035], [038], [050], [054], [094], [095], [106], [109] of the disclosure of the application and provides complete and clear notice of the meanings of these terms, as used by the Applicant, to persons of ordinary skill in the arts.

Clear, complete and explicit support for the expressions and terms "system resource as a plurality of domains", "system resource", "domain", "hierarchically related domains", "peer domains", "higher level domains" and "lower level domains" as used in the claims is similarly provided in the recitations of the claims themselves, such as in the recitations of:

"a shared system resource . . . comprising . . . a plurality of domains structured as an integrated, cooperative cluster of domains including hierarchically related domains and peer related domains,"

"each domain performing one or more functions supporting the services provided by the system resource,"

"hierarchically related domains include a higher level domain and a lower level domain respectively performing higher and lower level operations of one or more related functions supporting the services provided by the system resource,"

"peer related domains include parallel domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource," and

"a domain having a peer related domain monitors the peer related domain and assumes the operations performed by the peer domain upon detecting a failure in the peer related domain", and, in claim 2,

"peer related domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource."

The Applicant therefore respectfully requests a finding that all terms and expressions employed in claims 1 and 2 are clearly, completely, explicitly and unambiguously supported in both the specification and drawings of the disclosure fo the application and in the claim recitations.

(c) Lewis '501 does not teach or suggest each element and limitation recited in claims 1 and 2 under the requirements of 35 U.S.C. 102

Briefly and simply stated, 35 U.S.C. 102 essentially requires that a single prior art reference show each element recited in the claims in question and that the elements perform the same functions and have the same functional relationships as recited in the claims in question.

Therefore considering the teachings of Lewis '501 in light of the requirements and provisions of 35 U.S.C. 102, and referring in particular to Figs. 1 and 3 and to column 1, lines 34-64; column 2, lines 46 to column 3, line 15; column 3, lines 17-60; column 4, line 55 through column 6, line 25; and column 7, line 27 through column 8, line 33 thereof, are directed to a multi-domain network manager for interdomain alarm correlation among a plurality of network domains included in a communications network.

As described by Lewis '501, a communications network 10 comprises a plurality of networks that are organized into domains A, B, C and so on according to the functions performed by the networks, so that all networks performing a given type of function or a group or set of related functions are gathered into a single domain and all of the networks in a given domain perform a given type of function or a group or set of related functions.

The multi-domain manager 30 of Lewis '501 is connected with a plurality of network manager systems 11, comprises an alarm notifier 31, a response interface 33 and an inter-domain alarm correlation system 32, and provides high level alarm condition handling functions for network domains A, B, C and so on. As described by Lewis '501, the system includes an individual network management system 11 for and corresponding to each network domain and the network management system 11, for a

given network domain, monitors all of the networks that are members of that domain to detect and indicate the occurrence of an alarm condition in any of the networks of the corresponding domain. In the event of an alarm condition in the corresponding network domain, each network management system 11 generates an intra-domain alarm to alarm notifier 31 and alarm notifier 31, in turn, generates corresponding inter-domain alarms outputs indicative of alarm conditions in multiple domains to inter-domain alarm correlation system 32. Inter-domain alarm correlation system 32 analyzes the inter-domain alarm conditions and generates corresponding alarm condition handling commands for the network domains having related alarm conditions, with the alarm handling commands being passed from the inter-domain alarm correlation system 32 to the corresponding network domains through response interface 33 and the corresponding management systems 11.

It is therefore apparent that there are a number of fundamental differences and distinctions between Lewis '501 and the present invention, as recited in claims 1 and 2. For example, while Lewis '501 employs the term "domain", Lewis '501 attaches that term only to a single element of the Lewis '501 system. As defined by Lewis '501, domains are explicitly described and defined solely as collections of networks performing a given type of function or a group or set of related functions and all of the networks in a given domain perform a given type of function or a group or set of related functions.

It must be noted in this regard that although Lewis '501 uses the term "multi-domain" in identifying multi-domain manager 30 of the Lewis '501 system, this use of the term "multi-domain" does not extend or expand the term "domain" to include any element of the system other than the collections of like communications networks. This use of the term "multi-domain" merely indicates that the "multi-domain manager 30" is a system element that manages multiple communications network domains and the multi-domain manager 30 is not described or defined by Lewis '501 as being a domain of any form.

It must therefore be noted that, in addition to referring to only a single type of element of the Lewis '501 system, the definition of "domain" as employed in Lewis '501 does not comply with any of the definitions of "domain" as given in the Microsoft Company Dictionary, thus immediately contradicting the Examiner's definition of the "accepted" meaning of the term as defined in the Microsoft Company Dictionary.

It must also be noted that while Lewis '501's use of the term "domain" may arguably fall within certain aspects of the definition given in the present application, that is, as an element performing one or more functions supporting the services provided by the system resource, the meaning of "domain" as defined by its usage in Lewis '501 explicitly excludes both "hierarchical domains" and "peer domains".

That is, peer domains are defined in the specification and the claims of the present application as parallel domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource. Peer domains are further defined in the specification and the claims of the present application as domains having a functional and operational relationship such that a peer domain can monitor the functions and operation of the peer related domain and can assume the operations performed by the peer domain upon detecting a failure in the peer related domain.

According to Lewis '501, however, domains are explicitly defined as collections of networks performing a given single type of function or a single group or set of related functions. Lewis '501 further states that all of the networks that perform a single type of communication operation are gathered into a corresponding single "domain", so that different "domains" must therefore, by definition, perform different types of communications operations.

According to Lewis '501, therefore, no two domains can or will perform the same type of communications operation, thereby specifically excluding the Lewis '501 network domains from including peer domains, as defined in the present applications, wherein peer domains by definition perform related operations.

It must be further noted that the Lewis '501 network domains are further prohibited from including peer domains, as recited and defined by the present application and the claims, by the requirement that, according to the present invention, a given domain can not only monitor the operations of a peer domain, but can assume the operations of the peer domain in the event of a failure therein.

Lewis '501 does not in any way teach, or even suggest or hint, that any Lewis '501 network domain could monitor the operations of another network domain. In accordance with these definitions, but instead specifically teaches the use of completely separate

elements, that is, network management systems 11, to perform all network domain monitoring operations.

In addition, Lewis '501 does not teach. or even suggest or hint, that a given network domain could or should assume the operations of another domain when it detects a fault or failure in that other domain, as presently recited. Lewis '501 instead describes the network domains as being essentially independent of one another, and the assumption of one network domain's functions by another network domain would be at least difficult because, by definition in Lewis '501, all of the networks capable of performing a given type of communication operation are gathered into a single domain and no other domain includes a network capability of performing those types of operations. The sole type of role assumption that could be achieved according to the Lewis '501 system, therefore, is for an operation that was to be performed in a failed domain to be transferred to another domain where it may be possible to perform that operation using a different type of network operation. It will be appreciated, however, that this is an entirely and fundamentally different type of assumption of the functions of one domain by another domain than is contemplated and taught in the description and the claims of the present application.

With regard to the other elements of the Lewis '501 system, that is, network management systems 11, the alarm notifier 31, the response interface 33 and the inter-domain alarm correlation system 32, it must be noted that all communications and operations between these elements flows solely between structurally and functionally higher and lower elements of the system, and not between elements at the same structural and functional level. Stated another way, network management systems 11 do not communicate or interoperate with each other, but only downwards with their respective network domains and upwards with the alarm notifier 31 and the response interface 33. The alarm notifier 31 and the response interface 33, in turn, do not communicate or interoperate with each other but only downwards with the network management systems 11 and upwards with the inter-alarm correlation system 32. Again, therefore, it is apparent that there are no peer relationships and no peer domains present in the Lewis '501 system and Lewis '501 does not teach, or in any way suggest or even hint, at the possibility of peer elements or domains.

Lewis '501 therefore does not teach or suggest peer domains wherein peer domains are parallel domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource and having a functional and operational relationship such that a peer domain can monitor the functions and operation of a related peer domain and can assume the operations performed by the related peer domain upon detecting a failure in the related peer domain, as presently claimed.

In brief and in summary, therefore, Lewis '501 does not teach, suggest or even hint at the existence or use of peer domains, as defined in the present application and as recited in the pending claims, under the requirements and provisions of 35 U.S.C. 102.

Next considering hierarchical domains, it must first again be noted that the only domains defined or referred to in Lewis '501 are network domains A, B, C and so on, that all of the communications network domains are at the same structural and functional level of the Lewis '501 system and that, by definition by Lewis '501, no other form of "domain" exists in the Lewis '501 system. It is therefore apparent that, by definition and by the teaching and disclosure of Lewis '501, Lewis '501 does not teach or suggest the existence or use of hierarchical domains because the only form of domains in the Lewis '501 system, that is, the network domains, are all at the same structural and functional level and thereby cannot be hierarchical to one another.

In brief and in summary, therefore, Lewis '501 does not teach or suggest the existence or use of peer domains as defined in the present application and as recited in the claims under the requirements and provisions of 35 U.S.C. 102.

Lastly, and for the reasons discussed above, Lewis '501 does not and cannot teach or suggest "a shared system resource . . . comprising . . . a plurality of domains structured as an integrated, cooperative cluster of domains including hierarchically related domains and peer related domains" because Lewis '501 does not teach or suggest a system including peer domains and hierarchical domains ,as described and defined in the specification and recited in the claims presented for appeal.

Lewis '501 does not teach or suggest the existence or use of a system resource comprising a plurality of hierarchically and peer related domains under the requirements

and provisions of 35 U.S.C. 102. More specifically, Lewis '501 does not teach or suggest, according to the requirements and provisions of 35 U.S.C. 102:

a shared system resource . . . comprising . . . a plurality of domains structured as an integrated, cooperative cluster of domains including hierarchically related domains and peer related domains,

each domain performing one or more functions supporting the services provided by the system resource,

hierarchically related domains include a higher level domain and a lower level domain respectively performing higher and lower level operations of one or more related functions supporting the services provided by the system resource,

peer related domains include parallel domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource, or

a domain having a peer related domain monitors the peer related domain and assumes the operations performed by the peer domain upon detecting a failure in the peer related domain.

The Applicant therefore respectfully requests a finding that both claims 1 and 2 are patentably distinguished from and allowable over Lewis '501 under the requirements and provisions of 35 U.S.C. 102.

(ix) CONCLUSION

In view of the forgoing, the presently claimed invention, as recited in claims 1 and 2 presented for appearl, is not obvious in view of the applied art of Lewis '501. Accordingly, reversal of the final rejection of claims 1 and 2is respectfully requested in view of the foregoing and issuance of a Notice of Allowance is now believed in order.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,

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(VIII) CLAIMS APPENDIX

1. A shared system resource for use in a networked system to provide services to a plurality of clients communicating with the system resource through a network, comprising:

a plurality of domains structured as an integrated, cooperative cluster of domains including hierarchically related domains and peer related domains, each domain performing one or more functions supporting the services provided by the system resource, wherein

hierarchically related domains include a higher level domain and a lower level domain respectively performing higher and lower level operations of one or more related functions supporting the services provided by the system resource,

peer related domains include parallel domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource, and

a domain having a peer related domain monitors the peer related domain and assumes the operations performed by the peer domain upon detecting a failure in the peer related domain.

2. The shared system resource for use in a networked system to provide services to a plurality of clients communicating with the system resource through a network of claim 1, wherein a domain comprises:

peer related domains performing related operations in mutual support of one or more related functions supporting the services provided by the system resource.

(IX) EVIDENCE APPENDIX

NONE

(x) RELATED PROCEEDINGS APPENDIX

NONE